

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA,

Plaintiff,

4:18-cr-00876-JAR-NCC

v.

ASHU JOSHI

Defendant.

**MOTION TO ORDER THE GOVERNMENT TO COMPLY WITH 18 U.S.C. SECTION
3771 AND TO CONTINUE THE CURRENTLY SCHEDULED *FRYE* HEARING**

Comes now, M.D., the alleged victim in the above-styled matter, by and through undersigned counsel, and hereby respectfully requests this Honorable Court continue the hearing in this matter currently set today, November 25, 2019. In support of this request, M.D. states as follows:

18 U.S.C. Section 3771 sets forth the rights of crime victims. A crime victim has:

- “The right to reasonable, accurate, and timely notice of any public court proceeding...involving the crime...” 18 U.S.C. Section 3771(a)(2).
- “The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing...” 18 U.S.C. Section 3771(a)(4).

- “The reasonable right to confer with the attorney for the Government in the case.” 18 U.S.C. Section 3771(a)(5).
- “The right to be treated with fairness and with respect for the victim’s dignity and privacy.” 18 U.S.C. Section 3771(a)(8).
- “The right to be informed in a timely manner of any plea bargain...” 18 U.S.C. Section 3771(a)(9).

M.D. is married to the defendant and they have a child together. The content and conduct at issue in this case is that of a married couple. M.D., the sole alleged victim in this case, has - to no avail - requested a meeting with the Government. The Government obstructed these efforts, informing undersigned counsel that it would speak to M.D. upon resolution of its Motion for Inquiry. That motion was denied on Friday, November 22, 2019. That afternoon, a *Frye* hearing was scheduled for today, Monday, November 25, 2019.

The Government has not notified M.D. of this impending hearing. Undersigned counsel only became aware of the hearing after the close of business and files this motion to preserve M.D.’s rights. M.D. asks that this Court ensure that the Government meets its dictate to treat alleged crime victims with fairness and with respect for the victim’s dignity and privacy.” 18 U.S.C. Section 3771(a)(8). Again, the content and conduct charged herein is that of a married couple. The alleged victim in this case wants to be present and heard in the case the Government is pursuing against her husband.

18 U.S.C. Section 3771(b)(1) dictates that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded

the[se] rights...” It further states that “the court shall make every effort to permit the fullest attendance possible by the victim...” 18 U.S.C. Section 3771(d)(3) provides further guidance on how an alleged crime victim is to assert these rights. These rights *shall* be asserted in the district court in which the defendant is being prosecuted and “the district court *shall* take up and decide any motion asserting a victim’s right forthwith.” *Id.*

WHEREFORE, M.D. is the alleged crime victim in this case. M.D. is asking this Court to order the Government to comply with its obligations set forth in 18 U.S.C. Section 3771. M.D. further asks this Court to continue the currently scheduled hearing in this matter so that she can make arrangements to be present in accordance with her statutory rights.

Respectfully submitted,

MUHLENKAMP & BERNSEN,
ATTORNEYS AT LAW, LLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above document was electronically filed on November 25, 2019 and served via the electronic filing system to all attorneys of record.

Tory D. Bernsen